

REMARKS

Reconsideration is respectfully requested. Claims 1-4, 8, 9, 14 and 15 are present in the application. Claims 1 and 8 are amended. Claims 5-7 and 10-13 were previously canceled.

Claim 1 is rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 1 is amended in a manner which is believed to address the Examiner's concern.

Claims 1-4, 8, 9, 14 and 15 are rejected under 35 USC §103(a) as allegedly being unpatentable over Ogasawara (US 6512919) in view of Murthy (US 6353792) and further in view of Zilliacus (US 6832230).

Applicant respectfully traverses.

Regarding, Murthy, the Examiner says at page 4, lines 12-13 of the office action, "Again, Murthy discloses the claimed method except Murthy discloses storing data which is requested at a traffic monitoring device by one of a communicating device."

Applicant respectfully believes that this difference between Murthy and Applicant's claims. It seems the Examiner too much trivializes the difference. While Murthy discloses the uniquely dedicated storage areas for users, in the form of "mail boxes" in the central computer server (7), this is not teaching or suggestive of Applicant's claims.

A significant feature in Applicant's invention is that the software purchase-requested by a user from his or her portable data terminal is not directly downloaded into the portable data terminal but transferred into his or her dedicated storage area in the storage server for later downloading therefrom by the accessing from the portable data terminal.

More specifically, Murthy fails to show the following:

(a) Murthy fails to teach the purchase of software from a software sales site. The software handled in Murthy is not the software as available from the software sales site, but merely the data collected from sensors in traffic monitoring device. Such data is quite different from the software handled in Applicant's invention and will not be comparable or interchangeable from each other.

(b) The request of "data" in Murthy is not issued by the user of the workstation 13, but issued from the communicating device 3.

See column 4, lines 59-62 in Murthy, which reads:

"A μ C 4 within the communicating device 3 periodically polls the traffic monitoring device 1 to request a download of the data collected by the device."

(c) Consequently, it should be said that Murthy fails to teach or suggest the idea of Applicant's invention that the purchase-requested software is not directly downloaded into the

device that issued the request but to his or her dedicated storage area in the storage server.

Regarding the reference Zilliacus et al, Zilliacus does disclose the downloading of software (or application) from a software sales site. The downloading is made via the downloading server 118 from application database 120 (column 5, line 6-9). The downloading server 118 seems equivalent to the software sales site as in Applicant's invention. However, it should be noted that the downloading is initiated directly from the mobile terminal 110, 210, or via the PC of the user of the mobile terminal (column 6, lines 4-17).

Therefore, it is understood in Zilliacus that the software requested is directly transferred to and downloaded into the device (the mobile terminal or PC) that issued the request and is not transferred into the users dedicated storage area in a storage server for later downloading therefrom by accessing from the portable data terminal.

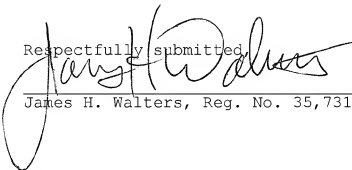
From the above discussion, it is apparent that even the combination of Murthy and Zilliacus fails to create Applicant's invention as recited in claims 1 or 8, and accordingly claims 1 and 8 are submitted to be allowable. Further, the dependent claims should also be allowable as depending from allowable claims.

In view of the above, applicant respectfully believes that all the claim rejections under 35 USC 103 should be withdrawn.

It is believed that all necessary fees have been paid with the filing of this response. However, if additional fees are required to keep the application pending, or if refund is owed, please charge/refund deposit account 503036.

In light of the above noted amendments and remarks, this application is believed in condition for allowance and notice thereof is respectfully solicited. The Examiner is asked to contact applicant's attorney at 503-224-0115 if there are any questions.

Respectfully submitted,


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